

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE: COMBINED WORLD TRADE
CENTER AND LOWER MANHATTAN
DISASTER SITE LITIGATION
(STRADDLER PLAINTIFFS)

21 MC 102 (AKH)
ECF Case

JAN ZDANOWICZ,

Plaintiff,

v.

CITY OF NEW YORK, et al.,

Civil Action No. 09cv2258

Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION TO DISMISS WTC
CAPTIVE INSURED DEFENDANTS FROM PLAINTIFF'S COMPLAINT**

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This joint motion is brought by Plaintiff Jan Zdanowicz (“Plaintiff”) together with the Defendants The City of New York, Tully Construction Co. Inc. and Tully Industries (collectively, the “WTC Captive Insured Defendants”) who respectfully submit this Memorandum of Law in Support of their Joint Motion to Dismiss Plaintiff’s Claims **against WTC Captive Defendants only.**

ARGUMENT

After thorough and detailed arms-length settlement negotiations, Plaintiff and the WTC Captive Defendants’ Insurer, the WTC Captive Insurance Company, Inc. (“WTC Captive”), have agreed to settle the claims brought by Plaintiff **against the WTC Captive Insured Defendants only.** This case was settled on an individual basis by sophisticated counsel with experience in both litigating these claims and negotiating settlements. The parties have finalized the settlement documents and the WTC Captive has mailed a payment to the Trustee of the Plaintiff’s Bankruptcy Estate pursuant to the terms of the confidential settlement agreement. While Plaintiff has settled his claims against the **WTC Captive Insured Defendants only**, he wishes to continue litigating his claims against the remaining defendants in his individual action. Therefore, pursuant to the direction of the Court and Fed. R. Civ. P. 41(a)(2), counsel for Plaintiff and counsel for the WTC Captive Insured Defendants jointly submit this motion to **dismiss only the WTC Captive Insured Defendants** from Plaintiff’s complaint with prejudice.

At the Court’s request, the parties also respectfully submit the proposed Order of Dismissal that includes the names of both the defendants to be dismissed, the defendants that should remain in the case, and a new caption, which is attached hereto as Exhibit A.

CONCLUSION

For all the foregoing reasons, Plaintiff and the WTC Captive Insured Defendants respectfully request that the Court grant their motion to dismiss the WTC Captive Insured Defendants only from Plaintiff's complaint with prejudice.

Dated: February 12, 2014

/s/ James E. Tyrrell, Jr.

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Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE WORLD TRADE CENTER
DISASTER SITE LITIGATION

JAN ZDANOWICZ

Plaintiff,

v.

111 WALL STREET LLC
230 CENTRAL CO., LLC
55 WATER STREET CONDOMINIUM
90 CHURCH STREET LIMITED
PARTNERSHIP
ALAN KASMAN DBA KASCO
AMBIENT GROUP, INC.
AMERICAN EXPRESS BANK, LTD
AMERICAN EXPRESS COMPANY
AMERICAN EXPRESS TRAVEL RELATED
SERVICES COMPANY, INC.
AMG REALTY PARTNERS, LP
ANN TAYLOR STORES CORPORATION
BANKERS TRUST COMPANY
BANKERS TRUST CORPORATION
BANKERS TRUST NEW YORK
CORPORATION
BATTERY PARK CITY AUTHORITY
BELFOR USA GROUP, INC.
BFP ONE LIBERTY PLAZA CO., LLC
BFP TOWER C CO. LLC
BFP TOWER C MM LLC.,
BLACKMON-MOORING-STEAMATIC
CATASTOPHE, INC. d/b/a/ BMS CAT
BOSTON PROPERTIES, INC.
BROOKFIELD FINANCIAL PROPERTIES,
INC.
BROOKFIELD FINANCIAL PROPERTIES, LP
BROOKFIELD PARTNERS, LP
BROOKFIELD PROPERTIES CORPORATION
BT PRIVATE CLIENTS CORP.

21 MC 102
Docket No. 09cv2258

AMENDED COMPLAINT

Jury Trial Demanded

CITIBANK, N.A.
CITIGROUP, INC.
CUSHMAN & WAKEFIELD 111 WALL, INC
CUSHMAN & WAKEFIELD, INC
DEUTSCHE BANK TRUST COMPANY
DEUTSCHE BANK TRUST COMPANY
AMERICAS
DEUTSCHE BANK TRUST CORPORATION
ENVIROTECH CLEAN AIR, INC
GENERAL RE SERVICES CORP.
GPS ENVIRONMENTAL CONSULTANTS,
INC
HILLMAN ENVIRONMENTAL GROUP, LLC
HMC CAPITOL RESOURCES CORP
HMC FINANCIAL CENTER, INC.,
INDOOR ENVIRONMENTAL TECHNOLOGY,
INC.
JONES LANG LASALLE AMERICAS, INC.
JONES LANG LASALLE SERVICES, INC.
KASCO RESTORATION SERVICES CO.
MANUFACTURES HANOVER TRUST
COMPANY
MARRIOTT HOTEL SERVICES, INC.,
MCCLIER CORPORATION
MERRILL LYNCH & CO, INC.
MK WEST STREET COMPANY, L.P.
NATIONAL ASSOCIATION OF SECURITIES
DEALERS, INC
NEW LIBERTY PLAZA LP
NEW WATER STREET CORP.
NEW YORK CITY ECONOMIC
DEVELOPMENT CORPORATION
NEW YORK CITY INDUSTRIAL
DEVELOPMENT AGENCY
NEW YORK CITY INDUSTRIAL
DEVELOPMENT CORPORATION
NOMURA HOLDING AMERICA, INC.
NOMURA SECURITIES INTERNATIONAL,
INC
ONE LIBERTY PLAZA
STATE STREET BANK AND TRUST
COMPANY, AS OWNER TRUSTEE OF
ZSF/OFFICE NY TRUST
STRUCTURE TONE (UK), INC.
STRUCTURE TONE GLOBAL SERVICES,
INC.

THE BANK OF NEW YORK TRUST
COMPANY NA
THE BOARD OF MANAGERS OF THE ONE
LIBERTY PLAZA CONDOMINIUM (CONDO
1178)
THE ONE LIBERTY PLAZA CONDOMINIUM
(CONDO # 1178)
TISHMAN INTERIORS CORPORATION
TOSCORP. INC.
TRAMMELL CROW COMPANY
TRAMMELL CROW CORPORATE
SERVICES, INC
WESTON SOLUTIONS, INC
WFP ONE LIBERTY PLAZA CO., L.P.,
WFP ONE LIBERTY PLAZA, CO.GP, CORP
WFP RETAIL CO. G.P. CORP
WFP RETAIL CO. L.P
WFP TOWER B CO. L.P.
WFP TOWER B CO., G.P. CORP.
WFP TOWER B HOLDING CO., LP
WFP TOWER D CO. L.P
WFP TOWER D CO., G.P. CORP
WFP TOWER D HOLDING CO. I L.P.,
WFP TOWER D HOLDING CO. II L.P
WFP TOWER D HOLDING I G.P. CORP
WORLD FINANCIAL PROPERTIES, L.P

Defendants.
